



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,985	01/25/2002	Doug Brown	BT00PCO/127644	3490

7590 10/03/2003
FROST BROWN TODD LLC
2200 PNC Center
201 E. Fifth Street
Cincinnati, OH 45202-4182

EXAMINER

TRAN, THUY VAN

ART UNIT	PAPER NUMBER
----------	--------------

3652

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SW

Office Action Summary	Application No. 10/056,985	Applicant(s) BROWN ET AL.	
	Examiner Thuy v. Tran	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3652

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on September 11, 2003 has been entered.
2. Upon reconsideration, the indication of allowability of claims 1-9 in the previous office action has been withdrawn.

Claim Objections

3. Claims 4 and 6 is objected to because of the following informalities: in claim 4, line 3, "liquid" should be --fluid--, and in claim 6, line 2, "a said inground vehicle lift having" should be deleted. Appropriate correction is required.

Specification

4. The disclosure is objected to because of the following informalities: there is no Brief Summary of the Invention. Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3652

6. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher 5,740,886 in view of Niemi et al. 5,969,619.

Fletcher '886 discloses an in ground lift having at least one vertically movable lift engagement structure 20, at least one vertical post 12 retractably into a containment housing 10 defining an internal cavity 16.

Fletcher does not disclose a system for controlling the fluid level in the internal cavity.

Niemi '619 discloses a system for controlling fluid level in an internal cavity comprising a hollow tube 32 being in fluid communication with a source of pressurized gas 12, a pressure sensor 20 in communication with the source of pressurized gas and the end of the tube to generating a signal in response when the pressure exceeds a predetermined pressure, and a control 40 configured to display the data indicating the fluid level in the internal cavity is in excess of a predetermined level in response to the signal from the pressure sensor.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the fluid level controlling device for the in ground lift of Fletcher as disclosed by Niemi in order to automatically maintain a desired maximum fluid level in the internal cavity.

Re claims 6-9, the modified in ground lift of either Fletcher can be used to perform the claim process.

7. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dayson 3,334,706 in view of Mitter 3,981,619.

Dayson '706 discloses an in ground lift having at least one vertically movable lift engagement structure 14, at least one vertical post 22 retractably into a containment housing 24 defining an internal cavity 26.

Dayson does not disclose a system for controlling the fluid level in the internal cavity.

Mitter '619 discloses a system for controlling fluid level in an internal cavity comprising a hollow tube 201 being in fluid communication with a source of pressurized gas 222, a pressure sensor 6 in communication with the source of pressurized gas and the end of the tube to generating a

Art Unit: 3652

signal in response when the pressure exceeds a predetermined pressure, and a control configured to display the data indicating the fluid level in the internal cavity is in excess of a predetermined level in response to the signal from the pressure sensor. See Figures 9 and 10, column 6, line 7 to column 7, line 25.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the fluid level controlling device for the in ground lift of Dayson as disclosed by Mitter in order to automatically maintain a desired maximum fluid level in the internal cavity.

Re claims 6-9, the modified in ground lift of either Dayson can be used to perform the claim process.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy v. Tran whose telephone number is (703) 308-2558.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D Lillis can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

TVT (TVT)


EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600